

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  GOLDFIELD ACCESS NETWORK, L.C.,  Complainant,  v.  U S WEST COMMUNICATIONS, INC.,  Respondent.	DOCKET NO. FCU-00-1
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**ORDER DENYING COMPLAINT**

(Issued April 14, 2000)

On January 20, 2000, Goldfield Access Network, L.C. (Goldfield), filed a complaint against U S WEST Communications, Inc. (U S WEST). Goldfield's complaint was filed pursuant to Iowa Code §§ 476.100 and 476.101 (1999). Goldfield alleges U S WEST is engaging in certain prohibited and anticompetitive acts in violation of statute, as well as the interconnection agreement between Goldfield and U S WEST.

**LOCAL NUMBER PORTABILITY**

Goldfield alleges Article IX, Section B1a of its interconnection agreement with U S WEST provides that

[t]he parties shall provide number portability on a reciprocal basis to each other to the extent technically feasible, and in accordance with rules and regulations as from time to time prescribed by the FCC and/or the Commission.

Subsections b and c set standards for the provision of interim number portability (INP) until such time as permanent number portability is implemented. Goldfield alleges that, without proper notice or coordination efforts, U S WEST unilaterally terminated the provision of INP and, as a result, it has been unable to sign up customers in two Iowa exchanges since mid-December of 1999.

FCC rules require that U S WEST deploy permanent, or local, number portability (LNP), upon receipt of a bona fide request (BFR) from a certified competitive local exchange carrier (CLEC). The record is clear that GAN presented several BFRs to U S WEST for number portability on June 7, 1999. (See Ex 102.)

U S WEST acknowledged receipt of those BFRs on July 1, 1999 and advised GAN that it would honor the requests to make permanent number portability available in the five switches that were the subject of the BFRs as of November 30, 1999. Although the U S WEST switches were LNP capable as of November 30, 1999, as requested, modifications and translations to GAN switches were not performed prior to the November 30, 1999 requested date. The record does not contain any valid explanation for the untimely preparation of GAN's switches.

GAN mistakenly believed that the 120-day transition period did not begin until November 30, 1999, when U S WEST had made its switches LNP capable. (TR. 37-39.) It is unreasonable and unrealistic to expect U S WEST to ensure that all its competitors understand all the FCC requirements surrounding LNP. U S WEST received BFRs from a competitor and, as required, acted upon those BFRs in a timely manner.

The FCC rules require that after a company has converted a switch to LNP, it can no longer accept new orders using interim number portability. Those rules allow a company, such as GAN, to seek a waiver of this requirement. GAN admitted that U S WEST had mentioned the possibility of obtaining a waiver of the FCC rules. However, GAN did not seek such a waiver from the FCC.

The complainant has a burden to prove the allegations specified in its complaint. GAN has failed to provide the Board with any evidence that would indicate that U S WEST acted in any manner other than what was required of it under the FCC rules regarding LNP. The Board will deny any relief requested regarding the issue of LNP.

### **EAS SERVICE**

In its complaint, GAN also alleged that U S WEST has acted in violation of the Board's declaratory ruling issued March 4, 1999, in Docket No. DRU-99-1 by refusing to provide extended area service for GAN's customers located within the Humboldt, Iowa, exchange.

GAN's allegation that U S WEST has acted in violation of the Board's March 4, 1999 declaratory ruling in Docket No. DRU-99-1 appears to be somewhat over-reaching. U S WEST does not dispute that GAN's customers located in an exchange historically served by U S WEST have the right to the same EAS area as is available to U S WEST's customers when all of the extended area exchanges are served by U S WEST. Thus, calls within the extended area are not billed to end users as toll calls.

The Board's March 4, 1999 declaratory ruling didn't address the issue of compensation for those calls. The determination that the calls are not billed to end users as toll calls, does not fully address the compensation issue. Under the Interconnection Agreement between GAN and U S WEST, EAS and other local traffic is to be exchanged by the use of two-way trunks between the two companies or by provision of one company's own one-way trunk, for delivery of local traffic to the other. The location of interconnection points is a mutually agreed upon point according to the interconnection agreement.

GAN has attempted to define a meet point as between one specific U S WEST switch and its own switch. Then, by way of that first meet point, it argues it is entitled to have free transport to other U S WEST exchanges, with different U S WEST switches. Thus, its argument seems to be that by purchasing one trunk at **any** meet point between **any** U S WEST switch and a GAN switch, that it is entitled to free access to **all** U S WEST switches in an EAS arrangement. It is unreasonable to require U S WEST to provide access to its facilities to a competitor, without being compensated for that access. The Board will deny any relief requested regarding the provision of EAS service to GAN's customers.

### **SERVICE QUALITY**

GAN's complaint also suggests it has experienced recurring delays in response to requests for service from U S WEST due to alleged preferential service to U S WEST's own customers at the expense of service to other providers.

Additionally, GAN alleges that it is continuing to experience an inordinate number of problems caused by U S WEST in the transfer of customers.

The record indicates that GAN's general service complaints involved the following circumstances:

- problems implementing interim and local number portability;
- orders improperly written by GAN;
- improperly trained U S West employee in the Interconnection Service Center.

It appears from the record that when GAN wrote orders incorrectly, U S WEST often did not take corrective action, but instead allowed GAN to circumvent the trouble reporting procedures. The majority of the service problems cited by GAN were cases in which GAN did not follow the normal order writing escalation process or the trouble reporting process. (Tr. 176.) Testimony of GAN acknowledged that it frequently ignored established procedures because of the high number of service failures previously experienced. (Tr. 194.)

U S WEST admits there were problems caused by one of its new employees in the Interconnect Service Center, in October 1999. The record does not indicate how many service problems were attributed to this employee. Once the problems were discovered, the employee received additional training. (Tr. 176.) Apparently, there has been no reoccurrence of this situation. (Id.)

GAN has argued that U S WEST violated Iowa Code § 476.100 by discriminating against GAN by 1) refusing or delaying access to U S West's services, 2) refusing or delaying access to essential facilities on terms or conditions no less

favorable than those U S West provides to itself, and 3) degrading the quality of access or service provided to GAN.

Although it appears that GAN's service quality suffered for a number of months, the record indicates that most service problems involved GAN's practice of circumventing normal installation and repair procedures, GAN's order writing errors, and GAN's misunderstanding about number portability. U S West can be blamed for some problems caused by an inexperienced employee in its Interconnect Service Center. However, it seems unlikely that these problems, alone, would have brought this complaint. Further, once U S WEST became aware of the problems, it acted reasonably by obtaining additional training for its employee. The Board will deny any relief requested regarding the quality of service by U S WEST to GAN.

**IT IS THEREFORE ORDERED:**

All relief requested by Goldfield Access Network in its complaint against U S WEST Communications, Inc., identified as Docket No. FCU-00-1, is denied.

**UTILITIES BOARD**

/s/ Allan T. Thoms

ATTEST:

/s/ Raymond K. Vawter, Jr.  
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 14<sup>th</sup> day of April, 2000.